



106TH CONGRESS
1ST SESSION

S. 1451

To amend titles XI and XVIII of the Social Security Act to improve efforts to combat medicare fraud, waste, and abuse.

IN THE SENATE OF THE UNITED STATES

JULY 28, 1999

Mr. HARKIN (for himself, Mr. HOLLINGS, Mr. BIDEN, and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend titles XI and XVIII of the Social Security Act to improve efforts to combat medicare fraud, waste, and abuse.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Medicare Waste Tax Reduction Act of 1999”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Increased medical reviews and antifraud activities.
- Sec. 3. Oversight of home health agencies.
- Sec. 4. No markup for drugs or biologicals.

- Sec. 5. Ensuring that the medicare program does not reimburse claims owed by other payers.
- Sec. 6. Extension of subpoena and injunction authority.
- Sec. 7. Civil monetary penalties for services ordered or prescribed by an excluded individual or entity.
- Sec. 8. Civil monetary penalties for false certification of eligibility to receive partial hospitalization and hospice services.
- Sec. 9. Application of certain provisions of the bankruptcy code.
- Sec. 10. Improving private sector coordination in combatting health care fraud.
- Sec. 11. Fees for agreements with medicare providers and suppliers.
- Sec. 12. Increased medicare compliance, education, and assistance for health care providers.
- Sec. 13. Paperwork and administrative hassle reduction.
- Sec. 14. Clarification of application of sanctions to Federal health care programs.
- Sec. 15. Payments for durable medical equipment.
- Sec. 16. Implementation of commercial claims auditing systems.
- Sec. 17. Partial hospitalization payment reforms.
- Sec. 18. Expansion of medicare senior waste patrol nationwide.
- Sec. 19. Application of inherent reasonableness to all part B services other than physicians' services.
- Sec. 20. Standards regarding payment for certain orthotics and prosthetics.
- Sec. 21. Increased flexibility in contracting for medicare claims processing.
- Sec. 22. Exemption of Inspectors General from Paperwork Reduction Act requirements.

1 SEC. 2. INCREASED MEDICAL REVIEWS AND ANTIFRAUD 2 ACTIVITIES.

3 (a) IN GENERAL.—Section 1893(d) of the Social Se-
4 curity Act (42 U.S.C. 1395ddd(d)) is amended by insert-
5 ing after paragraph (3) the following:

6 “(4) In the case of fiscal year 2000 and each
7 subsequent fiscal year, procedures to ensure that—

8 “(A) the number of medical reviews, utili-
9 zation reviews, and fraud reviews in a fiscal
10 year of providers of services and other individ-
11 uals and entities furnishing items and services
12 for which payment may be made under this title
13 is equal to at least twice the number of such re-
14 views that were conducted in fiscal year 1999;

1 “(B) the number of provider cost reports
2 audited in a fiscal year is equal to at least—

3 “(i) 15 percent of those submitted by
4 a home health agency or a skilled nursing
5 facility; and

6 “(ii) twice the number of such reports
7 that were audited in fiscal year 1999 for
8 those submitted by any other provider of
9 services or any other individual or entity
10 furnishing items and services for which
11 payment may be made under this title; and

12 “(C) in determining which providers of
13 services, individuals, entities, or cost reports to
14 review or audit, priority is placed on providers,
15 individuals, entities, and areas that the Sec-
16 retary determines are subject to abuse and
17 most likely to result in mispayment or overpay-
18 ment recoveries.”.

19 (b) INCREASE IN APPROPRIATED AMOUNTS FOR
20 MEDICARE AND MEDICAID ACTIVITIES.—

21 (1) IN GENERAL.—Section 1817(k)(3)(A)(i) of
22 the Social Security Act (42 U.S.C.
23 1395i(k)(3)(A)(i)) is amended—

24 (A) in subclause (II)—

1 (i) by striking “through 2003” and
2 inserting “and 1999”; and

3 (ii) by striking “and” at the end;

4 (B) by redesignating subclause (III) as
5 subclause (IV); and

6 (C) by inserting after subclause (II) the
7 following:

8 “(III) for each of the fiscal years
9 2000 through 2003, the limit for the pre-
10 ceding fiscal year, increased by 25 percent;
11 and”.

12 (2) ACTIVITIES.—Section 1817(k)(3)(A)(ii) of
13 the Social Security Act (42 U.S.C.
14 1395i(k)(3)(A)(ii)) is amended—

15 (A) in subclause (IV), by striking “not less
16 than \$110,000,000 and not more than
17 \$120,000,000” and inserting “\$160,000,000”;

18 (B) in subclause (V), by striking “not less
19 than \$120,000,000 and not more than
20 \$130,000,000” and inserting “\$190,000,000”;

21 (C) in subclause (VI), by striking “not less
22 than \$140,000,000 and not more than
23 \$150,000,000” and inserting “\$230,000,000”;
24 and

1 (D) in subclause (VII), by striking “not
2 less than \$150,000,000 and not more than
3 \$160,000,000” and inserting “\$260,000,000”.

4 (c) INCREASE IN APPROPRIATED AMOUNTS FOR
5 MEDICARE INTEGRITY PROGRAM.—Section 1817(k)(4) of
6 the Social Security Act (42 U.S.C. 1395i(k)(4)(B)) is
7 amended—

8 (1) in subparagraph (A), by striking “such
9 amounts as are necessary to carry out the Medicare
10 Integrity Program under section 1893, subject to
11 subparagraph (B) and to” and inserting “the
12 amount appropriated under subparagraph (B), and
13 such amount shall”; and

14 (2) in subparagraph (B)—

15 (A) in clause (iv), by striking “such
16 amount shall be not less than \$620,000,000
17 and not more than \$630,000,000” and insert-
18 ing “\$780,000,000”;

19 (B) in clause (v), by striking “such amount
20 shall be not less than \$670,000,000 and not
21 more than \$680,000,000” and inserting
22 “\$830,000,000”;

23 (C) in clause (vi), by striking “such
24 amount shall be not less than \$690,000,000

1 and not more than \$700,000,000” and insert-
2 ing “\$850,000,000”; and

3 (D) in clause (vii), by striking “such
4 amount shall be not less than \$710,000,000
5 and not more than \$720,000,000” and insert-
6 ing “\$870,000,000”.

7 **SEC. 3. OVERSIGHT OF HOME HEALTH AGENCIES.**

8 (a) VALIDATION SURVEYS OF HOME HEALTH AGEN-
9 CIES.—Section 1891(c) of the Social Security Act (42
10 U.S.C. 1395bbb(c)) is amended by adding at the end the
11 following:

12 “(3)(A)(i) The Secretary shall conduct onsite surveys
13 of a representative sample of home health agencies in each
14 State, in a sufficient number to allow inferences about the
15 adequacies of each State’s surveys conducted under this
16 subsection.

17 “(ii) A survey described in clause (i) shall be con-
18 ducted by the Secretary within 2 months of the date of
19 the survey conducted by the State and may be conducted
20 concurrently with the State survey.

21 “(iii) In conducting a survey described in clause (i),
22 the Secretary shall use the same survey protocols as the
23 State is required to use under this subsection.

24 “(iv) If, through a State survey, the State has deter-
25 mined that a home health agency is in compliance with

1 the requirements specified in or pursuant to section
2 1861(o), this section, or this title, but the Secretary deter-
3 mines (after conducting the survey described in clause (i))
4 that the facility does not meet such requirements, the Sec-
5 retary's determination as to the facility's noncompliance
6 with such requirements is binding and supersedes that of
7 the State survey.

8 “(B) With respect to each State, the Secretary shall
9 conduct surveys under subparagraph (A) each year with
10 respect to at least 5 percent of the number of home health
11 agencies surveyed by the State in the year, but in no case
12 less than 5 home health agencies in the State.

13 “(C) If the Secretary finds, on the basis of such sur-
14 veys, that a State has failed to perform surveys as re-
15 quired under this subsection or that a State's survey and
16 certification performance otherwise is not adequate, the
17 Secretary shall provide for an appropriate remedy, which
18 may include the training of survey teams in the State.

19 “(D) If the Secretary has reason to question the com-
20 pliance of a home health agency with any of the require-
21 ments specified in or pursuant to section 1861(o), this sec-
22 tion, or this title, the Secretary may conduct a survey of
23 the agency and, on the basis of that survey, make inde-
24 pendent and binding determinations concerning the extent

1 to which the home health agency meets such require-
2 ments.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall take effect on the date of enactment
5 of this Act.

6 **SEC. 4. NO MARKUP FOR DRUGS OR BIOLOGICALS.**

7 (a) IN GENERAL.—Section 1842(o) (42 U.S.C.
8 1395u(o)) is amended to read as follows:

9 “(o)(1) If a physician’s, supplier’s, or any other per-
10 son’s bill or request for payment for services includes a
11 charge for a drug or biological for which payment may
12 be made under this part and the drug or biological is not
13 paid on a cost or prospective payment basis as otherwise
14 provided in this part, the payment amount established in
15 this subsection for the drug or biological shall be the low-
16 est of the following:

17 “(A) The actual acquisition cost, as defined in
18 paragraph (2), to the person submitting the claim
19 for payment for the drug or biological.

20 “(B) 83 percent of the average wholesale price
21 of such drug or biological, as determined by the Sec-
22 retary.

23 “(C) For payments for any drug or biological
24 furnished on or after January 1, 2001, the median
25 actual acquisition cost of all claims for payment for

1 such drug or biological for the 12-month period be-
2 ginning July 1, 1999 (and adjusted, as the Sec-
3 retary determines appropriate, to reflect changes in
4 the cost of such drug or biological due to inflation,
5 and such other factors as the Secretary determines
6 appropriate).

7 “(D) The amount otherwise determined under
8 this part.

9 “(2) For purposes of paragraph (1)(A), the term ‘ac-
10 tual acquisition cost’ means, with respect to such drug or
11 biological, the cost of the drug or biological based on the
12 most economical case size in inventory on the date of dis-
13 pensing or, if less, the most economical case size pur-
14 chased within 6 months of the date of dispensing whether
15 or not that specific drug or biological was furnished to
16 an individual whether or not enrolled under this part.
17 Such term includes appropriate adjustments, as deter-
18 mined by the Secretary, for all discounts, rebates, or any
19 other benefit in cash or in kind (including travel, equip-
20 ment, or free products). The Secretary shall include an
21 additional payment for administrative, storage, and han-
22 dling costs.

23 “(3)(A) No payment shall be made under this part
24 for any drug or biological to a person whose bill or request

1 for payment for such drug or biological does not include
2 a statement of the person's actual acquisition cost.

3 “(B) A person may not bill an individual enrolled
4 under this part—

5 “(i) any amount other than the payment
6 amount specified in paragraph (1) or (4) (plus any
7 applicable deductible and coinsurance amounts), or

8 “(ii) any amount for such drug or biological for
9 which payment may not be made pursuant to sub-
10 paragraph (A).

11 “(C) If a person knowingly and willfully in repeated
12 cases bills 1 or more individuals in violation of subpara-
13 graph (B), the Secretary may apply sanctions against that
14 person in accordance with subsection (j)(2).

15 “(4) The Secretary may pay a reasonable dispensing
16 fee (less the applicable deductible and coinsurance
17 amounts) for any drug or biological to a licensed phar-
18 macy approved to dispense drugs or biologicals under this
19 part, if payment for such drug or biological is made to
20 the pharmacy.”.

21 (b) **EFFECTIVE DATE.**—The amendment made by
22 subsection (a) shall apply to drugs or biologicals furnished
23 on or after January 1, 2000.

1 (c) ELIMINATION OF REPORT ON AVERAGE WHOLE-
2 SALE PRICE.—Section 4556 of the Balanced Budget Act
3 of 1997 is amended by striking subsection (c).

4 **SEC. 5. ENSURING THAT THE MEDICARE PROGRAM DOES**
5 **NOT REIMBURSE CLAIMS OWED BY OTHER**
6 **PAYERS.**

7 (a) INFORMATION FROM GROUP HEALTH PLANS.—
8 Section 1862(b) of the Social Security Act (42 U.S.C.
9 1395y(b)) is amended by adding at the end the following:

10 “(7) INFORMATION FROM GROUP HEALTH
11 PLANS.—

12 “(A) PROVISION OF INFORMATION BY
13 GROUP HEALTH PLANS.—The administrator of
14 a group health plan that is subject to the re-
15 quirements of paragraph (1) shall provide the
16 Secretary with the information described in
17 subparagraph (C) for each individual covered
18 under the plan who is entitled to any benefits
19 under this title. Such information shall be pro-
20 vided in such manner and at such times as the
21 Secretary may specify (but in no case more fre-
22 quently than 4 times per year).

23 “(B) PROVISION OF INFORMATION BY EM-
24 PLOYERS AND EMPLOYEE ORGANIZATIONS.—An
25 employer (or employee organization) that main-

1 tains or participates in a group health plan that
2 is subject to the requirements of paragraph (1)
3 shall provide to the administrator of the plan
4 the information described in subparagraph (C)
5 for each individual covered under the plan who
6 is entitled to any benefits under this title. Such
7 information shall be provided in such manner
8 and at such times as the Secretary may specify
9 (but in no case more frequently than 4 times
10 per year).

11 “(C) INFORMATION.—The information de-
12 scribed in this subparagraph is as follows:

13 “(i) ELEMENTS CONCERNING THE IN-
14 DIVIDUAL.—

15 “(I) The individual’s name.

16 “(II) The individual’s date of
17 birth.

18 “(III) The individual’s sex.

19 “(IV) The individual’s social se-
20 curity insurance number.

21 “(V) The number assigned by the
22 Secretary to the individual for claims
23 under this title.

24 “(VI) The family relationship of
25 the individual to the person who has

1 current or prior employment status
2 with the employer.

3 “(ii) ELEMENTS CONCERNING THE
4 FAMILY MEMBER WITH CURRENT OR PRIOR
5 EMPLOYMENT STATUS.—

6 “(I) The name of the person in
7 the individual’s family who has cur-
8 rent or prior employment status with
9 the employer.

10 “(II) That person’s social secu-
11 rity insurance number.

12 “(III) The number or other iden-
13 tifier assigned by the plan to that per-
14 son.

15 “(IV) The periods of coverage for
16 that person under the plan.

17 “(V) The employment status of
18 that person (current or former em-
19 ployee) during those periods of cov-
20 erage.

21 “(VI) The classes (of that per-
22 son’s family members) covered under
23 the plan.

24 “(iii) PLAN ELEMENTS.—

1 “(I) The items and services cov-
2 ered under the plan.

3 “(II) The name and address to
4 which claims under the plan are to be
5 sent.

6 “(III) The name, address, and
7 tax identification number of the plan
8 sponsor.

9 “(iv) ELEMENTS CONCERNING THE
10 EMPLOYER.—

11 “(I) The employer’s name.

12 “(II) The employer’s address.

13 “(III) The employer identifica-
14 tion number of the employer.

15 “(IV) The tax identification num-
16 ber of the employer if different than
17 the number in clause (iii)(III).

18 “(D) USE OF IDENTIFIERS.—The adminis-
19 trator of a group health plan shall utilize a
20 unique identifier for the plan in providing infor-
21 mation under subparagraph (A) and in other
22 transactions, as may be specified by the Sec-
23 retary, related to the provisions of this sub-
24 section. The Secretary may provide to the ad-

1 ministrator the unique identifier described in
2 the preceding sentence.

3 “(E) PENALTY FOR NONCOMPLIANCE.—

4 Any individual or entity that knowingly and
5 willfully fails to comply with a requirement im-
6 posed by this paragraph shall be subject to a
7 civil money penalty not to exceed \$1,000 for
8 each incident of such failure. The provisions of
9 section 1128A (other than subsections (a) and
10 (b)) shall apply to a civil money penalty under
11 the previous sentence in the same manner as
12 those provisions apply to a penalty or pro-
13 ceeding under section 1128A(a).

14 “(F) GROUP HEALTH PLAN DEFINED.—In
15 this paragraph, the term ‘group health plan’
16 has the meaning given such term in paragraph
17 (1)(A)(v).”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall take effect on January 1, 2000.

20 **SEC. 6. EXTENSION OF SUBPOENA AND INJUNCTION AU-**
21 **THORITY.**

22 (a) SUBPOENA AUTHORITY.—Section 1128A(j)(1) of
23 the Social Security Act (42 U.S.C. 1320a–7a(j)(1)) is
24 amended by inserting “and section 1128” after “with re-
25 spect to this section”.

1 (b) INJUNCTION AUTHORITY.—Section 1128A(k) of
2 the Social Security Act (42 U.S.C. 1320a-7a(k)) is
3 amended by inserting “or an exclusion under section
4 1128,” after “subject to a civil monetary penalty under
5 this section,”.

6 (c) CLARIFYING AMENDMENTS.—

7 (1) IN GENERAL.—Section 1128A(j)(1) of the
8 Social Security Act (42 U.S.C. 1320a-7a(j)(1)) is
9 amended—

10 (A) by inserting “, except that, in so ap-
11 plying such sections, any reference therein to
12 the Commissioner of Social Security or the So-
13 cial Security Administration shall be considered
14 a reference to the Secretary or the Department
15 of Health and Human Services, respectively”
16 after “with respect to title II”; and

17 (B) by striking the second sentence.

18 (2) AUTHORITY.—Section 1128A(j)(2) of the
19 Social Security Act (42 U.S.C. 1320a-7a(j)(2)) is
20 amended to read as follows:

21 “(2) The Secretary may delegate to the Inspector
22 General of the Department of Health and Human Services
23 any or all authority granted under this section or under
24 section 1128.”.

1 (d) CONFORMING AMENDMENT.—Section 1128 of the
2 Social Security Act (42 U.S.C. 1320a-7) is amended by
3 adding at the end the following:

4 “(k) For provisions of law concerning the Secretary’s
5 subpoena and injunction authority with respect to activi-
6 ties under this section, see subsections (j) and (k) of sec-
7 tion 1128A.”.

8 **SEC. 7. CIVIL MONETARY PENALTIES FOR SERVICES OR-**
9 **DERED OR PRESCRIBED BY AN EXCLUDED IN-**
10 **DIVIDUAL OR ENTITY.**

11 (a) IN GENERAL.—Section 1128A(a)(1) of the Social
12 Security Act (42 U.S.C. 1320a-7a(a)(1)) is amended—
13 (1) in subparagraph (D)—

14 (A) by inserting “, ordered, or prescribed
15 by such person” after “other item or service
16 furnished”;

17 (B) by inserting “(pursuant to this title or
18 title XVIII)” after “period in which the person
19 was excluded”;

20 (C) by striking “pursuant to a determina-
21 tion by the Secretary” and all that follows
22 through “the provisions of section 1842(j)(2)”;
23 and

24 (D) by striking “or” at the end;

1 (2) by redesignating subparagraph (E) as sub-
2 paragraph (F); and

3 (3) by adding after subparagraph (D) the fol-
4 lowing:

5 “(E) is for a medical or other item or serv-
6 ice ordered or prescribed by a person excluded
7 (pursuant to this title or title XVIII) from the
8 program under which the claim was made, and
9 the person furnishing such item or service
10 knows or should know of such exclusion, or”.

11 (b) **EFFECTIVE DATE.**—The amendments made by
12 subsection (a) shall apply to claims presented on or after
13 the date of enactment of this Act.

14 **SEC. 8. CIVIL MONETARY PENALTIES FOR FALSE CERTIFI-**
15 **CATION OF ELIGIBILITY TO RECEIVE PAR-**
16 **TIAL HOSPITALIZATION AND HOSPICE SERV-**
17 **ICES.**

18 (a) **IN GENERAL.**—Section 1128A(b)(3) of the Social
19 Security Act (42 U.S.C. 1320a-7a(b)(3)) is amended—

20 (1) in subparagraph (A)(ii), by inserting “, hos-
21 pice care, or partial hospitalization services” after
22 “home health services”; and

23 (2) in subparagraph (B), by inserting “, section
24 1814(a)(7) in the case of hospice care, or section

1 1835(a)(2)(F) in the case of partial hospitalization
2 services” after “home health services”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 subsection (a) shall apply to documents executed on or
5 after the date of enactment of this Act.

6 **SEC. 9. APPLICATION OF CERTAIN PROVISIONS OF THE**
7 **BANKRUPTCY CODE.**

8 (a) RESTRICTED APPLICABILITY OF BANKRUPTCY
9 STAY, DISCHARGE, AND PREFERENTIAL TRANSFER PRO-
10 VISIONS TO MEDICARE AND MEDICAID DEBTS.—Title XI
11 of the Social Security Act (42 U.S.C. 1301 et seq.) is
12 amended by inserting after section 1143 the following:

13 “APPLICATION OF CERTAIN PROVISIONS OF THE
14 BANKRUPTCY CODE

15 “SEC. 1144. (a) MEDICARE- AND MEDICAID-RE-
16 LATED ACTIONS NOT STAYED BY BANKRUPTCY PRO-
17 CEEDINGS.—The commencement or continuation of any
18 action against a debtor under this title, title XVIII, or title
19 XIX (other than an action with respect to health care
20 services provided to the debtor under title XVIII), includ-
21 ing any action or proceeding to exclude or suspend the
22 debtor from program participation, assess civil money pen-
23 alties, recoup or set off overpayments, or deny or suspend
24 payment of claims shall not be subject to the provisions
25 of section 362(a) of title 11, United States Code.

1 “(b) MEDICARE- AND MEDICAID-RELATED DEBT
 2 NOT DISCHARGEABLE IN BANKRUPTCY.—A debt owed to
 3 the United States or to a State for an overpayment under
 4 title XVIII or title XIX (other than an overpayment for
 5 health care services provided to the debtor under title
 6 XVIII), or for a penalty, fine, or assessment under this
 7 title, title XVIII, or title XIX, shall not be dischargeable
 8 under any provision of title 11, United States Code.

9 “(c) REPAYMENT OF CERTAIN DEBTS CONSIDERED
 10 FINAL.—Payments made to repay a debt to the United
 11 States or to a State with respect to items or services pro-
 12 vided, or claims for payment made, under title XVIII or
 13 XIX (including repayment of an overpayment (other than
 14 an overpayment for health care services provided to the
 15 debtor under title XVIII)), or to pay a penalty, fine, or
 16 assessment under this title, title XVIII, or title XIX, shall
 17 be considered final and not preferential transfers under
 18 section 547 of title 11, United States Code.”.

19 (b) MEDICARE RULES APPLICABLE TO BANKRUPTCY
 20 PROCEEDINGS.—Title XVIII of the Social Security Act
 21 (42 U.S.C. 1395 et seq.) is amended by adding at the end
 22 the following:

23 “APPLICATION OF PROVISIONS OF THE BANKRUPTCY
 24 CODE

25 “SEC. 1897. (a) USE OF MEDICARE STANDARDS AND
 26 PROCEDURES.—Notwithstanding any provision of title 11,

1 United States Code, or any other provision of law, in the
2 case of claims by a debtor in bankruptcy for payment
3 under this title, the determination of whether the claim
4 is allowable, and of the amount payable, shall be made
5 in accordance with the provisions of this title and title XI.

6 “(b) NOTICE TO CREDITOR OF BANKRUPTCY PETI-
7 TIONER.—In the case of a debt owed to the United States
8 with respect to items or services provided, or claims for
9 payment made, under this title (including a debt arising
10 from an overpayment or a penalty, fine, or assessment
11 under title XI or this title), the notices to the creditor of
12 bankruptcy petitions, proceedings, and relief required
13 under title 11, United States Code (including under sec-
14 tion 342 of that title and section 2002(j) of the Federal
15 Rules of Bankruptcy Procedure), shall be given to the Sec-
16 retary. Provision of such notice to a fiscal agent of the
17 Secretary shall not be considered to satisfy this require-
18 ment.

19 “(c) TURNOVER OF PROPERTY TO THE BANKRUPTCY
20 ESTATE.—For purposes of section 542(b) of title 11,
21 United States Code, a claim for payment under this title
22 shall not be considered to be a matured debt payable to
23 the estate of a debtor until such claim has been allowed
24 by the Secretary in accordance with procedures under this
25 title.”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to petitions filed on or after the
 3 date of enactment of this Act.

4 **SEC. 10. IMPROVING PRIVATE SECTOR COORDINATION IN**
 5 **COMBATTING HEALTH CARE FRAUD.**

6 (a) IN GENERAL.—Title XI of the Social Security Act
 7 (42 U.S.C. 1301 et seq.) is amended by inserting after
 8 section 1157 the following:

9 “IMPROVING PRIVATE SECTOR COORDINATION IN
 10 COMBATTING HEALTH CARE FRAUD

11 “SEC. 1157A. (a) IN GENERAL.—Notwithstanding
 12 any other provision of law, no health plan (as defined in
 13 section 1128C(c)), issuer of a health plan, or employee of
 14 a health plan shall be held liable in any civil action with
 15 respect to the provision of information regarding sus-
 16 pected health care fraud, including Federal health care of-
 17 fenses (as defined in section 24(a) of title 18, United
 18 States Code) to an applicable individual unless such infor-
 19 mation is false and the person providing it knew, or had
 20 reason to believe, that such information was false.

21 “(b) APPLICABLE INDIVIDUAL.—In subsection (a),
 22 the term ‘applicable individual’ means—

23 “(1) a Federal, State, or local law enforcement
 24 official responsible for the investigation or prosecu-
 25 tion of suspected health care fraud offenses; or

1 “(2) an employee of a health plan or issuer of
2 a health plan.

3 “(c) ATTORNEY’S FEES.—Any health plan, issuer of
4 a health plan, or employee of a health plan against whom
5 a civil action is brought, and who is found to be entitled
6 to immunity from liability by reason of this section, shall
7 be entitled to recover reasonable attorney’s fees and costs
8 from the person who brought the civil action.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall take effect on the date of enactment
11 of this Act.

12 **SEC. 11. FEES FOR AGREEMENTS WITH MEDICARE PRO-**
13 **VIDERS AND SUPPLIERS.**

14 (a) FEES RELATED TO MEDICARE PROVIDER AND
15 SUPPLIER ENROLLMENT AND REENROLLMENT.—Section
16 1866 of the Social Security Act (42 U.S.C. 1395cc) is
17 amended by adding at the end the following:

18 “(j) ENROLLMENT PROCEDURES AND FEES.—

19 “(1) ENROLLMENT OF INDIVIDUALS AND ENTI-
20 TIES THAT ARE NOT PROVIDERS OF SERVICES.—The
21 Secretary may establish a procedure for enrollment
22 (and periodic reenrollment) of individuals or entities
23 that are not providers of services subject to the pro-
24 visions of subsection (a) but that furnish health care
25 items or services under this title.

1 “(2) FEES.—

2 “(A) IN GENERAL.—The Secretary may
3 impose fees for initiation and renewal of pro-
4 vider agreements under subsection (a) and for
5 enrollment and periodic reenrollment of other
6 individuals and entities furnishing health care
7 items or services under this title under para-
8 graph (1), in amounts up to the full amount
9 which the Secretary reasonably estimates to be
10 sufficient to cover the Secretary’s costs related
11 to the process for initiating and reviewing such
12 agreements and enrollments.

13 “(B) FEES CREDITED TO SPECIAL FUND
14 IN TREASURY.—Fees collected pursuant to this
15 paragraph shall be credited to a special fund of
16 the United States Treasury, and shall remain
17 available until expended, to the extent and in
18 such amounts as provided in advance in appro-
19 priations Acts, for necessary expenses for these
20 purposes, including costs of establishing and
21 maintaining procedures and records systems,
22 processing applications, and conducting back-
23 ground investigations.”.

1 (b) CLERICAL AMENDMENT.—The heading of section
2 1866 of the Social Security Act (42 U.S.C. 1395cc) is
3 amended to read as follows:

4 “AGREEMENTS WITH PROVIDERS OF SERVICES AND EN-
5 ROLLMENT OF OTHER PERSONS FURNISHING SERV-
6 ICES”.

7 **SEC. 12. INCREASED MEDICARE COMPLIANCE, EDUCATION,**
8 **AND ASSISTANCE FOR HEALTH CARE PRO-**
9 **VIDERS.**

10 (a) DEVELOPMENT OF PLAN.—Not later than 6
11 months after the date of enactment of this Act, the Sec-
12 retary of Health and Human Services shall, in consulta-
13 tion with health care provider representatives, develop and
14 implement a comprehensive plan of activities to—

15 (1) maximize health care provider knowledge of
16 medicare program integrity requirements, including
17 anti-fraud and abuse laws and administrative ac-
18 tions;

19 (2) assist health care providers with medicare
20 program integrity compliance, including educating
21 such providers regarding compliance activities and
22 procedures of the Health Care Financing Adminis-
23 tration and the Inspector General of the Department
24 of Health and Human Services;

25 (3) develop improved computer technology for
26 health care providers to both reduce their adminis-

1 trative hassles and facilitate their compliance with
2 medicare program requirements, including physician
3 evaluation and management guidelines; and

4 (4) otherwise improve compliance among health
5 care providers with rules and regulations under the
6 medicare program.

7 (b) FUNDING.—Notwithstanding any other provision
8 of law, of the amounts appropriated under section
9 1817(k)(4) of the Social Security Act (42 U.S.C.
10 1395i(k)(4)) for a fiscal year, there shall be made avail-
11 able \$10,000,000 in fiscal year 2000 and such sums as
12 are necessary in fiscal years 2001 through 2004 to carry
13 out the purposes of this section.

14 **SEC. 13. PAPERWORK AND ADMINISTRATIVE HASSLE RE-**
15 **DUCTION.**

16 (a) STUDY BY COMMITTEE.—

17 (1) ESTABLISHMENT.—Not later than 90 days
18 after the date of enactment of this Act, the Sec-
19 retary of Health and Human Services shall contract
20 with the Institute of Medicine of the National Acad-
21 emy of Sciences to establish a committee to study
22 medicare program administrative requirements that
23 are applicable to health care providers under such
24 program.

1 (2) COMMITTEE.—The committee described in
2 paragraph (1) shall be composed of—

3 (A) at least 9 health care providers who
4 participate in, and have significant experience
5 working with, the medicare program;

6 (B) experts in paperwork reduction; and

7 (C) beneficiaries under the medicare pro-
8 gram or their representatives.

9 (b) RECOMMENDATIONS.—The committee described
10 in subsection (a) shall develop recommendations regarding
11 how paperwork and administrative requirements under the
12 medicare program can be minimized in a manner that—

13 (1) increases the time health care providers
14 that are subject to such requirements have to spend
15 in direct patient care; and

16 (2) maintains medicare program integrity and
17 compliance with anti-fraud and abuse requirements.

18 In developing such recommendations, the committee shall
19 seek to streamline variations in administrative and paper-
20 work requirements between the medicare program and
21 other government health programs and private health
22 plans.

23 (c) REPORT.—

24 (1) IN GENERAL.—Not later than June 1,
25 2000, the committee described in subsection (a)

1 shall submit a report to the Secretary of Health and
 2 Human Services, the Committees on Finance and
 3 Appropriations of the Senate and the Committees on
 4 Ways and Means, Commerce, and Appropriations of
 5 the House of Representatives.

6 (2) CONTENTS.—The report required under
 7 paragraph (1) shall contain a detailed description of
 8 the matters studied pursuant to subsection (a) and
 9 the recommendations developed pursuant to sub-
 10 section (b), including such legislation and adminis-
 11 trative actions as the committee considers appro-
 12 priate.

13 (d) AUTHORIZATION OF APPROPRIATIONS.—

14 (1) IN GENERAL.—There are authorized to be
 15 appropriated \$1,000,000 for fiscal year 2000 to
 16 carry out the purposes of this section.

17 (2) AVAILABILITY.—Any sums appropriated
 18 under the authorization contained in this subsection
 19 shall remain available, without fiscal year limitation,
 20 until expended.

21 **SEC. 14. CLARIFICATION OF APPLICATION OF SANCTIONS**
 22 **TO FEDERAL HEALTH CARE PROGRAMS.**

23 (a) COVERAGE OF EMPLOYMENT.—Section 1128 of
 24 the Social Security Act (42 U.S.C. 1320a-7) is
 25 amended—

1 (1) in subsection (a), in the matter preceding
2 paragraph (1), by inserting “(including employment
3 under)” after “participation in”; and

4 (2) in subsection (b), in the matter preceding
5 paragraph (1), by inserting “(including employment
6 under)” after “participation in”.

7 (b) APPLICATION UNDER CIVIL MONEY PENALTY
8 AUTHORITY.—Section 1128A of the Social Security Act
9 (42 U.S.C. 1320a–7a) is amended—

10 (1) in subsection (a)(4), by striking “program
11 under title XVIII or a State health care program”
12 and inserting “Federal health care program” each
13 place it appears;

14 (2) in subsection (a)(5)—

15 (A) by striking “title XVIII of this Act, or
16 under a State health care program (as defined
17 in section 1128(h))” and inserting “a Federal
18 health care program”; and

19 (B) by striking “title XVIII, or a State
20 health care program (as so defined)” and in-
21 serting “such program”;

22 (3) in the last sentence of subsection (a), by
23 striking “and to direct the appropriate State agency
24 to exclude the person from participation in any State
25 health care program”; and

1 (4) in subsection (h), by striking “State agency
2 or agencies administering or supervising the admin-
3 istration of State health care programs (as defined
4 in section 1128(h))” and inserting “Federal or State
5 agency or agencies administering or supervising the
6 administration of any Federal health care program”.

7 (c) APPLICATION OF WAIVER PROVISIONS TO FED-
8 ERAL HEALTH CARE PROGRAMS.—Section 1128 of the
9 Social Security Act (42 U.S.C. 1320a-7) is amended—

10 (1) in subsection (c)(3)(B), by striking “upon
11 the request of a State” and inserting “upon the re-
12 quest of the director of a Federal health care pro-
13 gram”;

14 (2) in subsection (d)(3)(B)(i)—

15 (A) by striking “State health care pro-
16 gram” and inserting “Federal health care pro-
17 gram”; and

18 (B) by striking “State agency” and insert-
19 ing “Federal or State agency”; and

20 (3) in subsection (d)(3)(B)(ii), by striking
21 “State health care program” and inserting “Federal
22 health care program (other than under title
23 XVIII)”.

1 (d) NOTICE PROVISION REGARDING FEDERAL
2 HEALTH CARE PROGRAMS.—Section 1128 of the Social
3 Security Act (42 U.S.C. 1320a-7) is amended—

4 (1) in the heading of subsection (d), by striking
5 “TO STATE AGENCIES AND EXCLUSION UNDER
6 STATE HEALTH CARE PROGRAMS” and inserting
7 “AND EXCLUSION UNDER FEDERAL HEALTH CARE
8 PROGRAMS”;

9 (2) in subsection (d)(1), by striking “State”
10 and inserting “Federal”;

11 (3) in subsection (d)(2)—

12 (A) by striking “State agency” and insert-
13 ing “Federal or State agency” each place it ap-
14 pears; and

15 (B) by striking “State health care pro-
16 gram” and inserting “Federal health care pro-
17 gram” each place it appears;

18 (4) in subsection (d)(3)(A), by striking “State”
19 and inserting “Federal”; and

20 (5) in subsection (g)(3)—

21 (A) by striking “State agency” and insert-
22 ing “Federal or State agency”; and

23 (B) by striking “State health care pro-
24 gram” and inserting “Federal health care pro-
25 gram”.

1 (e) USE OF DEFINITION OF FEDERAL HEALTH CARE
2 PROGRAM AND TREATMENT OF FEDERAL EMPLOYEES
3 HEALTH BENEFITS PROGRAM AS A FEDERAL HEALTH
4 CARE PROGRAM.—Section 1128B(f) of the Social Security
5 Act (42 U.S.C. 1320a–7b(f)) is amended—

6 (1) in the matter preceding paragraph (1), by
7 inserting “and sections 1128 and 1128A” after “this
8 section”; and

9 (2) in paragraph (1), by striking “(other than
10 the health insurance program under chapter 89 of
11 title 5, United States Code)”.

12 (f) AUTHORITY TO EXCLUDE FROM FEDERAL
13 HEALTH CARE PROGRAMS BASED ON PRO REC-
14 OMMENDATIONS.—Section 1156(b)(1) of the Social Secu-
15 rity Act (42 U.S.C. 1320c–5(b)(1)) is amended—

16 (1) in the second sentence, by striking “eligi-
17 bility to provide services under this Act on a reim-
18 bursable basis” and inserting “participation in any
19 Federal health care program (as defined in section
20 1128B(f))”; and

21 (2) in the third sentence, by striking “eligibility
22 to provide services on a reimbursable basis” and in-
23 serting “participation in such programs”.

24 (g) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Subject to paragraph (2),
 2 the amendments made by this section shall take ef-
 3 fect on the date of enactment of this Act.

4 (2) CONVICTIONS UNDER FEHBP.—The amend-
 5 ment made by subsection (e)(2) shall apply, with re-
 6 spect to convictions under the health insurance pro-
 7 gram under chapter 89 of title 5, United States
 8 Code, to convictions that occur on or after the date
 9 of enactment of this Act.

10 **SEC. 15. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT.**

11 (a) IN GENERAL.—Section 1834(a)(1) of the Social
 12 Security Act (42 U.S.C. 1395m(a)(1)) is amended—

13 (1) in subparagraph (B)—

14 (A) in clause (i), by striking “, or” at the
 15 end and inserting a semicolon; and

16 (B) by inserting after clause (ii) the fol-
 17 lowing:

18 “(iii) the least expensive amount that
 19 the supplier of the item is paid by a
 20 Medicare+Choice organization for such
 21 item; or

22 “(iv) the least expensive amount that
 23 the supplier of the item is paid by any
 24 Federal health care program (as defined in
 25 section 1128B(f)) for such item;”; and

1 (2) by adding at the end the following:

2 “(E) ADMINISTRATIVE COSTS.—

3 “(i) IN GENERAL.—Except as pro-
4 vided in clause (ii), if—

5 “(I) the payment amount for an
6 item is covered under clauses (iii) or
7 (iv) of subparagraph (B); and

8 “(II) the Secretary determines
9 that the administrative costs associ-
10 ated with billing and receiving reim-
11 bursement from the Secretary for the
12 item exceeds the administrative costs
13 associated with providing such item to
14 a Medicare+Choice organization or
15 another Federal health care program
16 (as so defined);

17 then the Secretary shall adjust the pay-
18 ment rate for such item to reflect such ex-
19 cess.

20 “(ii) LIMITATION.—In no case may
21 the payment rate for an item that is ad-
22 justed under clause (i) exceed the payment
23 rate for such item determined in clauses (i)
24 and (ii) of subparagraph (B).

1 “(iii) COLLECTION OF INFORMA-
2 TION.—The Secretary shall collect from
3 durable medical equipment suppliers that
4 receive reimbursement under Federal
5 health care programs (as so defined) such
6 information as the Secretary determines is
7 necessary in order to make the determina-
8 tion described in clause (i)(II).”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 subsection (a) shall apply to items provided on or after
11 January 1, 2000.

12 **SEC. 16. IMPLEMENTATION OF COMMERCIAL CLAIMS AU-**
13 **DITING SYSTEMS.**

14 (a) COMMERCIAL CLAIMS AUDITING SYSTEMS.—

15 (1) IN GENERAL.—Not later than 90 days after
16 the date of enactment of this Act, the Secretary
17 shall require medicare carriers to use commercial
18 claims auditing systems in the processing of claims
19 under part B of the medicare program under title
20 XVIII of the Social Security Act (42 U.S.C. 1395j
21 et seq.) for the purpose of identifying billing errors
22 and abuses.

23 (2) SUPPLEMENT TO OTHER TECHNOLOGY.—
24 Commercial claims auditing systems required under
25 paragraph (1) shall be used as a supplement to any

1 other information technology used by medicare car-
2 riers in processing claims under the medicare pro-
3 gram.

4 (3) UNIFORMITY.—In order to ensure uni-
5 formity in processing claims under the medicare pro-
6 gram, the Secretary may require that medicare car-
7 riers utilize 1 or more common commercial claims
8 auditing systems, provided that the selection of such
9 system or systems by the Secretary shall be—

10 (A) after due consideration of competing
11 alternative systems; but

12 (B) without regard to any provision of law
13 that requires the use of competitive procedures
14 (as defined in section 4 of the Office of Federal
15 Procurement Policy Act (41 U.S.C. 403)) or
16 the publication of notice of proposed procure-
17 ments.

18 (4) IMPLEMENTATION.—Commercial claims au-
19 diting systems required under paragraph (1) shall be
20 implemented by all medicare carriers by not later
21 than 180 days after the date of enactment of this
22 Act.

23 (b) MINIMUM SOFTWARE REQUIREMENTS.—Any
24 commercial claims auditing system required to be imple-
25 mented pursuant to subsection (a) shall, at a minimum—

1 (1) be a commercial item;

2 (2) surpass the capability of systems currently
3 used in the processing of claims under part B of the
4 medicare program; and

5 (3) be modifiable to—

6 (A) satisfy pertinent statutory require-
7 ments of the medicare program; and

8 (B) conform to policies of the Secretary re-
9 garding claims processing under such program.

10 (c) DISCLOSURE.—

11 (1) IN GENERAL.—Except as provided in para-
12 graph (2), notwithstanding any other provision of
13 law, any information technology (or data related
14 thereto) utilized by medicare carriers in establishing
15 a commercial claims auditing system pursuant to
16 subsection (a) shall not be subject to public disclo-
17 sure.

18 (2) AUTHORIZED DISCLOSURE.—The Secretary
19 may authorize the public disclosure of the informa-
20 tion described in paragraph (1) if the Secretary de-
21 termines that—

22 (A) release of such information is in the
23 public interest; and

1 (B) the information to be released is not
2 protected from disclosure under section 552(b)
3 of title 5, United States Code.

4 (d) DEFINITIONS.—In this section—

5 (1) COMMERCIAL CLAIMS AUDITING SYSTEM.—
6 The term “commercial claims auditing system”
7 means a commercial specialized auditing system that
8 includes edits which identify inappropriately coded
9 health care claims.

10 (2) COMMERCIAL ITEM.—The term “commer-
11 cial item” has the meaning given such term in sec-
12 tion 4 of the Office of Federal Procurement Policy
13 Act (41 U.S.C. 403).

14 (3) INFORMATION TECHNOLOGY.—The term
15 “information technology” has the meaning given
16 such term in subparagraphs (A) and (B) of section
17 5002(3) of the Information Technology Management
18 Reform Act of 1996 (40 U.S.C. 1401(3)), were such
19 information technology to be acquired by an execu-
20 tive agency.

21 (4) MEDICARE CARRIER.—The term “medicare
22 carrier” means an entity that has a contract with
23 the Secretary pursuant to section 1842(a) of the So-
24 cial Security Act (42 U.S.C. 1395u(a)).

1 (5) SECRETARY.—The term “Secretary” means
2 the Secretary of Health and Human Services.

3 **SEC. 17. PARTIAL HOSPITALIZATION PAYMENT REFORMS.**

4 (a) LIMITATION ON LOCATION OF PROVISION OF
5 SERVICES.—

6 (1) IN GENERAL.—Section 1861(ff)(2) of the
7 Social Security Act (42 U.S.C. 1395x(ff)(2)) is
8 amended in the matter following subparagraph (I)—

9 (A) by striking “and furnished” and in-
10 serting “furnished”; and

11 (B) by inserting “, and furnished other
12 than in a skilled nursing facility or in an indi-
13 vidual’s personal residence” before the period.

14 (2) EFFECTIVE DATE.—The amendments made
15 by paragraph (1) shall apply to partial hospitaliza-
16 tion services furnished on or after the first day of
17 the third month beginning after the date of enact-
18 ment of this Act.

19 (b) QUALIFICATIONS FOR COMMUNITY MENTAL
20 HEALTH CENTERS.—Section 1861(ff)(3)(B) of the Social
21 Security Act (42 U.S.C. 1395x(ff)(3)(B)) is amended by
22 striking “entity” and all that follows and inserting the fol-
23 lowing: “entity that—

1 “(i) provides the mental health services de-
2 scribed in paragraph (1) of section 1913(c) of the
3 Public Health Service Act;

4 “(ii) meets applicable licensing or certification
5 requirements for community mental health centers
6 in the State in which it is located; and

7 “(iii) meets such additional standards or re-
8 quirements as the Secretary may specify to ensure—

9 “(I) the health and safety of individuals
10 being furnished such services;

11 “(II) the effective or efficient furnishing of
12 such services (including protecting against
13 fraud, waste, and abuse); and

14 “(III) the compliance of such entity with
15 the criteria described in such section.”.

16 (c) REENROLLMENT OF PROVIDERS OF CMHC PAR-
17 TIAL HOSPITALIZATION SERVICES.—

18 (1) IN GENERAL.—With respect to each com-
19 munity mental health center that furnishes partial
20 hospitalization services for which payment is made
21 under title XVIII of the Social Security Act, the
22 Secretary of Health and Human Services shall pro-
23 vide for periodic recertification to ensure that the
24 provision of such services complies with section
25 1913(c) of the Public Health Service Act.

1 (2) DEADLINE FOR FIRST RECERTIFICATION.—

2 The first recertification under paragraph (1) shall be
3 completed not later than 1 year after the date of en-
4 actment of this Act.

5 (d) PROSPECTIVE PAYMENT SYSTEM FOR PARTIAL
6 HOSPITALIZATION SERVICES.—

7 (1) ESTABLISHMENT OF SYSTEM.—Section
8 1833 of the Social Security Act (42 U.S.C. 1395l)
9 is amended by inserting after subsection (o) the fol-
10 lowing:

11 “(p)(1) The Secretary may establish by regulation a
12 prospective payment system for partial hospitalization
13 services provided by a community mental health center or
14 by a hospital to its outpatients. The system shall provide
15 for appropriate payment levels for efficient centers and
16 hospitals and take into account payment levels for similar
17 services furnished by other efficient entities.

18 “(2) A prospective payment system established pur-
19 suant to paragraph (1) shall provide for payment amounts
20 for—

21 “(A) the first year in which such system ap-
22 plies, at a level so that, as estimated by the Sec-
23 retary, the total aggregate payments under this part
24 (including payments attributable to deductibles and
25 coinsurance) for such year are not greater than the

1 total aggregate payments that would have otherwise
2 been made under this part if such system had not
3 been implemented (assuming full implementation of
4 the provisions contained in subsections (a) through
5 (c) of section 17 of the Medicare Waste Tax Reduc-
6 tion Act of 1999); and

7 “(B) each subsequent year, in an amount equal
8 to the payment amount provided for under this
9 paragraph for the preceding year updated by the
10 percentage increase in the Consumer Price Index for
11 all urban consumers (all items; United States city
12 average) for the 12-month period ending with Sep-
13 tember of that preceding year.”.

14 (2) COINSURANCE.—Section 1866(a)(2)(A) of
15 the Social Security Act (42 U.S.C. 1395cc(a)(2)(A))
16 is amended by adding at the end the following: “In
17 the case of services described in section
18 1832(a)(2)(J), clause (ii) of the first sentence of this
19 subparagraph shall be applied by substituting the
20 payment basis established under section 1833(p) for
21 the reasonable charges.”.

22 (3) CONFORMING AMENDMENTS.—

23 (A) Section 1832(a)(2) of the Social Secu-
24 rity Act (42 U.S.C. 1395k(a)(2)) is amended—

1 (i) in subparagraph (B), by striking
2 “or subparagraph (I)” and inserting “, (I),
3 or (J)”; and

4 (ii) in subparagraph (J), by striking
5 “provided by a community mental health
6 center (as described in section
7 1861(ff)(2)(B))”.

8 (B) Section 1833(a) of the Social Security
9 Act (42 U.S.C. 1395l(a)) is amended—

10 (i) in paragraph (2) in the matter pre-
11 ceding subparagraph (A), by striking “(H),
12 and (I)” and inserting “(H), (I), and (J)”;
13

14 (ii) in paragraph (8), by striking
15 “and” at the end;

16 (iii) in paragraph (9), by striking the
17 period at the end and inserting “; and”;
18 and

19 (iv) by adding at the end the fol-
20 lowing:

21 “(10) in the case of partial hospitalization serv-
22 ices, 80 percent of the payment basis under the pro-
23 spective payment system established under section
24 1833(p).”.

25 (4) EFFECTIVE DATE.—The amendments made
by paragraphs (2) and (3) apply to services fur-

1 nished on or after January 1 of the first year that
2 begins at least 6 months after the date on which
3 regulations are issued under section 1833(p) of the
4 Social Security Act (42 U.S.C. 1395l(p)) (as in-
5 serted by paragraph (1)).

6 **SEC. 18. EXPANSION OF MEDICARE SENIOR WASTE PATROL**
7 **NATIONWIDE.**

8 There are authorized to be appropriated \$25,000,000
9 in fiscal year 2000, and such sums as are necessary for
10 fiscal years 2001 through 2003, for the purpose of car-
11 rying out, and expanding nationwide, the Health Care
12 Anti-Fraud, Waste and Abuse Community Volunteer
13 Demonstration Projects conducted by the Administration
14 on Aging pursuant to the Omnibus Consolidated Appro-
15 priations Act, 1997 (Public Law 104-208).

16 **SEC. 19. APPLICATION OF INHERENT REASONABLENESS TO**
17 **ALL PART B SERVICES OTHER THAN PHYSI-**
18 **CIA NS' SERVICES.**

19 (a) REPEAL OF CERTAIN PROVISIONS OF THE BAL-
20 ANCED BUDGET ACT OF 1997.—

21 (1) REPEAL.—Section 4316 of the Balanced
22 Budget Act of 1997 (Public Law 105-33; 111 Stat.
23 390), and the amendments made by such section,
24 are repealed effective August 5, 1997.

1 (2) APPLICABILITY.—Effective August 5, 1997,
2 the Social Security Act shall be applied and adminis-
3 tered as if section 4316 of the Balanced Budget Act
4 of 1997 (Public Law 105–33; 111 Stat. 390), and
5 the amendments made by such section, had not been
6 enacted.

7 (b) APPLICATION OF INHERENT REASONABLENESS
8 TO ALL PART B SERVICES OTHER THAN PHYSICIANS’
9 SERVICES.—

10 (1) IN GENERAL.—Section 1842(b)(8) of the
11 Social Security Act (42 U.S.C. 1395u(b)(8)) is
12 amended to read as follows:

13 “(8) The Secretary shall describe by regulation the
14 factors to be used in determining the cases (of particular
15 items or services) in which the application of this part
16 (other than to physicians’ services paid under section
17 1848) results in the determination of an amount that, be-
18 cause of its being grossly excessive or grossly deficient,
19 is not inherently reasonable, and provide in those cases
20 for the factors to be considered in establishing an amount
21 that is realistic and equitable.”.

22 (2) EFFECTIVE DATE.—The amendment made
23 by this subsection shall take effect August 5, 1997.

1 SEC. 20. STANDARDS REGARDING PAYMENT FOR CERTAIN
2 ORTHOTICS AND PROSTHETICS.

3 (a) STANDARDS.—

4 (1) IN GENERAL.—Section 1834(h)(1) of the
5 Social Security Act (42 U.S.C. 1395m(h)(1)) is
6 amended by adding at the end the following:

7 “(F) ESTABLISHMENT OF STANDARDS FOR
8 CERTAIN ITEMS.—

9 “(i) IN GENERAL.—No payment shall
10 be made for an applicable item unless such
11 item is provided by a qualified practitioner
12 or a qualified supplier under the system es-
13 tablished by the Secretary under clause
14 (iii). For purposes of the preceding sen-
15 tence, if a qualified practitioner or a quali-
16 fied supplier contracts with an entity to
17 provide an applicable item, then no pay-
18 ment shall be made for such item unless
19 the entity is also a qualified supplier.

20 “(ii) DEFINITIONS.—In this
21 subparagraph—

22 “(I) APPLICABLE ITEM.—The
23 term ‘applicable item’ means orthotics
24 and prosthetics that require edu-
25 cation, training, and experience to
26 custom fabricate such item. Such

term does not include shoes and shoe inserts.

“(II) QUALIFIED PRACTITIONER.—The term ‘qualified practitioner’ means a physician or health professional who—

“(aa) is specifically trained and educated to provide or manage the provision of custom-designed, fabricated, modified, and fitted orthotics and prosthetics, and is either certified by the American Board for Certification in Orthotics and Prosthetics, Inc., or is credentialed and approved by a program that the Secretary determines, in consultation with appropriate experts in orthotics and prosthetics, has training and education standards that are necessary to provide applicable items;

“(bb) is licensed in orthotics or prosthetics by the State in

1 which the applicable item is sup-
2 plied; or

3 “(cc) has completed at least
4 10 years practice in the provision
5 of applicable items.

6 “(III) QUALIFIED SUPPLIER.—
7 The term ‘qualified supplier’ means
8 any entity that is—

9 “(aa) accredited by the
10 American Board for Certification
11 in Orthotics and Prosthetics,
12 Inc.; or

13 “(bb) accredited and ap-
14 proved by a program that the
15 Secretary determines has accredi-
16 tation and approval standards
17 that are essentially equivalent to
18 those of such Board.

19 “(iii) SYSTEM.—The Secretary, in
20 consultation with appropriate experts in
21 orthotics and prosthetics, shall establish a
22 system under which the Secretary shall—

23 “(I) determine which items are
24 applicable items and formulate a list
25 of such items;

1 “(II) review the applicable items
2 billed under the coding system estab-
3 lished under this title; and

4 “(III) limit payment for applica-
5 ble items pursuant to clause (i).”.

6 (2) EFFECTIVE DATE.—The amendment made
7 by paragraph (1) shall apply to items provided on or
8 after January 1, 2000.

9 (b) REVISION OF DEFINITION OF ORTHOTICS.—

10 (1) IN GENERAL.—Section 1861(s)(9) of the
11 Social Security Act (42 U.S.C. 1395x(s)(9)) is
12 amended by inserting “(including such braces that
13 are used in conjunction with, or as components of,
14 other medical or non-medical equipment when pro-
15 vided by a qualified practitioner (as defined in sub-
16 clause (II) of section 1834(h)(1)(F))) or a qualified
17 supplier (as defined in subclause (III) of such sec-
18 tion)” after “braces”.

19 (2) EFFECTIVE DATE.—The amendment made
20 by paragraph (1) shall apply to items provided on or
21 after January 1, 2000.

1 SEC. 21. INCREASED FLEXIBILITY IN CONTRACTING FOR
2 MEDICARE CLAIMS PROCESSING.

3 (a) CARRIERS TO INCLUDE ENTITIES THAT ARE
4 NOT INSURANCE COMPANIES.—Section 1842 of the Social
5 Security Act (42 U.S.C. 1395u) is amended—

6 (1) in subsection (a), in the matter preceding
7 paragraph (1), by striking “with carriers” and in-
8 serting “with agencies and organizations (in this
9 section referred to as ‘carriers’)”; and

10 (2) by striking subsection (f).

11 (b) SECRETARIAL FLEXIBILITY IN CONTRACTING
12 FOR AND IN ASSIGNING FISCAL INTERMEDIARY AND CAR-
13 RIER FUNCTIONS.—

14 (1) IN GENERAL.—

15 (A) Section 1816(a) of the Social Security
16 Act (42 U.S.C. 1395h(a)) is amended to read
17 as follows:

18 “(a)(1) The Secretary may enter into contracts with
19 agencies or organizations to perform any or all of the fol-
20 lowing functions, or parts of those functions (or, to the
21 extent provided in a contract, to secure performance there-
22 of by other organizations) to—

23 “(A) determine (subject to the provisions of sec-
24 tion 1878 and to such review by the Secretary as
25 may be provided for by the contracts) the amount of

1 the payments required pursuant to this part to be
2 made to providers of services;

3 “(B) make payments described in subparagraph
4 (A);

5 “(C) provide consultative services to institutions
6 or agencies to enable them to establish and maintain
7 fiscal records necessary for purposes of this part and
8 otherwise to qualify as providers of services;

9 “(D) serve as a center for, and communicate to
10 individuals entitled to benefits under this part and
11 to providers of services, any information or instruc-
12 tions furnished to the agency or organization by the
13 Secretary, and serve as a channel of communication
14 from individuals entitled to benefits under this part
15 and from providers of services to the Secretary;

16 “(E) make such audits of the records of pro-
17 viders of services as may be necessary to ensure that
18 proper payments are made under this part;

19 “(F) perform the functions described by sub-
20 section (d); and

21 “(G) perform such other functions as are nec-
22 essary to carry out the purposes of this part.

23 “(2) As used in this title and title XI, the term ‘fiscal
24 intermediary’ means an agency or organization with a con-
25 tract under this section.”.

1 (B) Section 1816(b)(1)(A) of the Social
2 Security Act (42 U.S.C. 1395h(b)(1)(A)) is
3 amended by striking “after applying the stand-
4 ards, criteria, and procedures” and inserting
5 “after evaluating the ability of the agency or
6 organization to fulfill the contract performance
7 requirements”.

8 (C) Section 1816(d) of the Social Security
9 Act (42 U.S.C. 1395h(d)) is amended to read
10 as follows:

11 “(d) Each provider of services shall have a fiscal
12 intermediary that—

13 “(1) acts as a single point of contact for the
14 provider of services under this part;

15 “(2) makes its services sufficiently available to
16 meet the needs of the provider of services; and

17 “(3) is responsible and accountable for arrang-
18 ing the resolution of issues raised under this part by
19 the provider of services.”.

20 (D) Section 1816(e) of the Social Security
21 Act (42 U.S.C. 1395h(d)) is amended to read
22 as follows:

23 “(e) The Secretary, in evaluating the performance of
24 a fiscal intermediary, may solicit comments from providers
25 of services.”.

1 (E) Section 1816(f)(1) of the Social Secu-
2 rity Act (42 U.S.C. 1395h(f)(1)) is amended to
3 read as follows:

4 “(f)(1) With respect to performance requirements
5 under subsection (a), the Secretary may consult with—

6 “(A) Medicare+Choice organizations under
7 part C of this title;

8 “(B) providers of services and other persons
9 who furnish items or services for which payment
10 may be made under this title; and

11 “(C) organizations and agencies performing
12 functions necessary to carry out the purposes of this
13 part.”.

14 (F) Section 1842(b)(2) of the Social Secu-
15 rity Act (42 U.S.C. 1395u(b)(2)) is amended—

16 (i) in subparagraph (A)—

17 (I) by inserting “(i)” before “No
18 such contract”;

19 (II) by striking the second sen-
20 tence and inserting the following:

21 “(ii) With respect to performance requirements for
22 contracts under subsection (a), the Secretary may consult
23 with—

24 “(I) Medicare+Choice organizations under part
25 C of this title;

1 “(II) providers of services and other persons
2 who furnish items or services for which payment
3 may be made under this title; and

4 “(III) organizations and agencies performing
5 functions necessary to carry out the purposes of this
6 part.”;

7 (III) by striking the third sen-
8 tence; and

9 (IV) by striking the fourth sen-
10 tence and inserting the following:

11 “(iii) The Secretary may not require, as a condition
12 of entering into a contract under this section or under sec-
13 tion 1871, that a carrier match data obtained other than
14 in its activities under this part with data used in the ad-
15 ministration of this part for purposes of identifying situa-
16 tions in which section 1862(b) may apply.”;

17 (ii) in subparagraph (B), in the mat-
18 ter preceding clause (i), by striking “estab-
19 lish standards” and inserting “develop con-
20 tract performance requirements”; and

21 (iii) in subparagraph (D), by striking
22 “standards and criteria” each place it ap-
23 pears and inserting “contract performance
24 requirements”.

25 (2) CONFORMING AMENDMENTS.—

1 (A) Section 1816(b) of the Social Security
2 Act (42 U.S.C. 1395h(b)) is amended—

3 (i) in the matter preceding paragraph
4 (1), by striking “an agreement” and in-
5 serting “a contract”;

6 (ii) in paragraph (1)(B), by striking
7 “agreement” and inserting “contract”; and

8 (iii) in paragraph (2)(A), by striking
9 “agreement” and inserting “contract”.

10 (B) Section 1816(c) of the Social Security
11 Act (42 U.S.C. 1395h(c)) is amended—

12 (i) in paragraph (1)—

13 (I) in the first sentence, by strik-
14 ing “An agreement” and inserting “A
15 contract”; and

16 (II) in the last sentence, by strik-
17 ing “an agreement” and inserting “a
18 contract”;

19 (ii) in paragraph (2)(A), in the matter
20 preceding clause (i)—

21 (I) by striking “agreement” and
22 inserting “contract”; and

23 (II) by inserting “that provides
24 for making payments under this part”
25 after “this section”;

(iii) in paragraph (2)(C), by striking “hospital, rural primary care hospital, skilled nursing facility, home health agency, hospice program, comprehensive outpatient rehabilitation facility, or rehabilitation agency” and inserting “provider of services (as defined in section 1861(u))”; and

(iv) in paragraph (3)(A)—

(I) by striking “agreement” and inserting “contract”; and

(II) by inserting “that provides for making payments under this part” after “this section”.

(C) Section 1816(h) of the Social Security Act (42 U.S.C. 1395h(h)) is amended—

(i) by striking “An agreement” and inserting “A contract”; and

(ii) by striking “the agreement” each place it appears and inserting “the contract”.

(D) Section 1816(i)(1) of the Social Security Act (42 U.S.C. 1395h(i)(1)) is amended by striking “an agreement” and inserting “a contract”.

1 (E) Section 1816(j) of the Social Security
2 Act (42 U.S.C. 1395h(j)) is amended in the
3 matter preceding paragraph (1)—

4 (i) by striking “An agreement” and
5 inserting “A contract”; and

6 (ii) by striking “for home health serv-
7 ices, extended care services, or post-hos-
8 pital extended care services”.

9 (F) Section 1816(k) of the Social Security
10 Act (42 U.S.C. 1395h(k)) is amended—

11 (i) by striking “An agreement” and
12 inserting “A contract”; and

13 (ii) by inserting “(as appropriate)”
14 after “submit”.

15 (G) Section 1816(l) of the Social Security
16 Act (42 U.S.C. 1395h(l)) is amended by strik-
17 ing “an agreement” and inserting “a contract”.

18 (H) Section 1842(a) of the Social Security
19 Act (42 U.S.C. 1395u(a)) is amended—

20 (i) in the matter preceding paragraph
21 (1) (as amended by subsection (a)(1))—

22 (I) by striking “carriers with
23 which agreements” and inserting “sin-
24 gle contracts under section 1816 and
25 this section together, or separate con-

1 tracts with eligible agencies and orga-
2 nizations with which contracts”; and

3 (II) by striking “some or all of
4 the following functions” and inserting
5 “any or all of the following functions,
6 or parts of those functions”; and

7 (ii) in paragraph (3), by inserting “(to
8 and from individuals enrolled under this
9 part and to and from physicians and other
10 entities that furnish items and services)”
11 after “communication”.

12 (I) Section 1842(b) of the Social Security
13 Act (42 U.S.C. 1395u(b)(2)(C)) is amended—

14 (i) in paragraph (2)(C), in the first
15 sentence, by inserting “(as appropriate)”
16 after “carriers”;

17 (ii) in paragraph (3), in the matter
18 preceding subparagraph (A), by inserting
19 “(as appropriate)” after “contract”;

20 (iii) in paragraph (7)(A), in the mat-
21 ter preceding clause (i), by striking “the
22 carrier” and inserting “a carrier”; and

23 (iv) in paragraph (11)(A), in the mat-
24 ter preceding clause (i), by inserting “(as
25 appropriate)” after “each carrier”.

(J) Section 1842(h) of the Social Security Act (42 U.S.C. 1395u(h)) is amended—

(i) in paragraph (2), in the first sentence—

(I) by striking “an agreement” and inserting “a contract”; and

(II) by inserting “(as appropriate)” after “shall”;

(ii) in paragraph (3)(A), by striking “an agreement” and inserting “a contract”;

(iii) in paragraph (3)(B), in the third sentence, by striking “agreements” and inserting “contracts”;

(iv) in paragraph (5)(A), by inserting “(as appropriate)” after “carriers”; and

(v) in paragraph (8)—

(I) by striking “an agreement” and inserting “a contract”; and

(II) by striking “such agreement” and inserting “such contract”.

(c) ELIMINATION OF SPECIAL PROVISIONS FOR TERMINATIONS OF CONTRACTS.—

(1) Section 1816 of the Social Security Act (42 U.S.C. 1395h) is amended—

1 (A) in subsection (b), in the matter pre-
2 ceding paragraph (1), by striking “or renew”;

3 (B) in subsection (c)(1), in the last sen-
4 tence, by striking “or renewing”; and

5 (C) by striking subsection (g).

6 (2) Section 1842(b) of the Social Security Act
7 (42 U.S.C. 1395u(b)(2)) is amended by striking
8 paragraph (5).

9 (d) REPEAL OF FISCAL INTERMEDIARY REQUIRE-
10 MENTS THAT ARE NOT COST-EFFECTIVE.—Section
11 1816(f)(2) of the Social Security Act (42 U.S.C.
12 1395h(f)(2)) is amended to read as follows:

13 “(2) The contract performance requirements de-
14 scribed in paragraph (1) shall include—

15 “(A) with respect to claims for services fur-
16 nished under this part by any provider of services
17 (as defined in section 1861(u)) other than a hos-
18 pital, whether such agency or organization is able to
19 process 75 percent of reconsiderations within 60
20 days and 90 percent of reconsiderations within 90
21 days; and”.

22 (e) REPEAL OF COST REIMBURSEMENT REQUIRE-
23 MENTS.—

24 (1) Section 1816(e)(1) of the Social Security
25 Act (42 U.S.C. 1395h(c)(1)) is amended—

1 (A) in the first sentence—

2 (i) by striking the comma after “ap-
3 propriate” and inserting “and”; and

4 (ii) by striking “, and shall provide
5 for payment” and all that follows before
6 the period; and

7 (B) by striking the second and third sen-
8 tences.

9 (2) Section 1842(c)(1) of the Social Security
10 Act (42 U.S.C. 1395h(c)(1)) is amended—

11 (A) in the first sentence—

12 (i) by striking “section shall provide”
13 and inserting “section may provide”; and

14 (ii) by striking “, and shall provide”
15 and all that follows before the period; and

16 (B) by striking the second and third sen-
17 tences.

18 (3) Section 2326 of the Deficit Reduction Act
19 of 1984 (42 U.S.C. 1395h note) is amended by
20 striking subsection (a).

21 (f) SECRETARIAL FLEXIBILITY WITH RESPECT TO
22 RENEWING CONTRACTS AND TRANSFER OF FUNC-
23 TIONS.—

1 (1) Section 1816(c) of the Social Security Act
2 (42 U.S.C. 1395h(c)) is amended by adding at the
3 end the following:

4 “(4)(A) Except as provided in laws with general ap-
5 plicability to Federal acquisition and procurement or in
6 subparagraph (B), the Secretary shall use competitive pro-
7 cedures when entering into contracts under this section.

8 “(B)(i) The Secretary may renew a contract with a
9 fiscal intermediary under this section from term to term
10 without regard to section 5 of title 41, United States Code,
11 or any other provision of law requiring competition, if the
12 fiscal intermediary has met or exceeded the performance
13 requirements established in the current contract.

14 “(ii) Functions may be transferred among fiscal
15 intermediaries without regard to any provision of law re-
16 quiring competition. However, the Secretary shall ensure
17 that performance quality is considered in such transfers.”.

18 (2) Section 1842(b)(1) of the Social Security
19 Act (42 U.S.C. 1395u(b)(1)) is amended to read as
20 follows:

21 “(b)(1)(A) Except as provided in laws with general
22 applicability to Federal acquisition and procurement or in
23 subparagraph (B), the Secretary shall use competitive pro-
24 cedures when entering into contracts under this section.

1 “(B)(i) The Secretary may renew a contract with a
 2 carrier under subsection (a) from term to term without
 3 regard to section 5 of title 41, United States Code, or any
 4 other provision of law requiring competition, if the carrier
 5 has met or exceeded the performance requirements estab-
 6 lished in the current contract.

7 “(ii) Functions may be transferred among carriers
 8 without regard to any provision of law requiring competi-
 9 tion. However, the Secretary shall ensure that perform-
 10 ance quality is considered in such transfers.”.

11 (g) YEAR 2000 COMPLIANCE.—

12 (1) Section 1816(f)(2) of the Social Security
 13 Act (42 U.S.C. 1395h(f)(2)) (as amended by sub-
 14 section (d)) is amended by adding at the end the fol-
 15 lowing:

16 “(B) a requirement that, by such time as the
 17 Secretary considers reasonable, the information tech-
 18 nology that is used or acquired by the agency or or-
 19 ganization to carry out its responsibilities under this
 20 title (to the extent that the Secretary finds such in-
 21 formation technology is under the control of such
 22 agency or organization)—

23 “(i) meets the definition of ‘Year 2000
 24 compliant’ under the Federal Acquisition Regu-
 25 lation (concerning accurate processing of date

1 and time data (including calculating, com-
2 paring, and sequencing) from, into, and be-
3 tween the 20th and 21st centuries, and the
4 years 1999 and 2000 and leap year calcula-
5 tions) but without regard to whether the infor-
6 mation technology is being acquired; and

7 “(ii) meets such other criteria for Year
8 2000 compliance as the Secretary considers ap-
9 propriate.”.

10 (2) Section 1842(b)(2)(A)(i) of the Social Secu-
11 rity Act (42 U.S.C. 1395u(b)(2)(A)(i)) (as amended
12 by subsection (b)(1)(F)) is amended by striking the
13 period and inserting “, including a requirement that,
14 by such time as the Secretary considers reasonable,
15 the information technology that is used or acquired
16 by such carrier to carry out its responsibilities under
17 this title (to the extent that the Secretary finds such
18 information technology is under the control of such
19 carrier) meets—

20 “(I) the definition of ‘Year 2000 compliant’
21 under the Federal Acquisition Regulation (con-
22 cerning accurate processing of date and time data
23 (including calculating, comparing, and sequencing)
24 from, into, and between the 20th and 21st centuries,
25 and the years 1999 and 2000 and leap year calcula-

1 tions) but without regard to whether the information
2 technology is being acquired; and

3 “(II) such other criteria for Year 2000 compli-
4 ance as the Secretary considers appropriate.”.

5 (h) WAIVER OF COMPETITIVE REQUIREMENTS FOR
6 INITIAL CONTRACTS.—Contracts that have periods that
7 begin before or during the 1-year period that begins on
8 the first day of the fourth calendar month that begins
9 after the date of enactment of this Act may be entered
10 into under section 1816(a) or 1842(a) of the Social Secu-
11 rity Act (42 U.S.C. 1395h(a) and 1395u(a)) without re-
12 gard to any provision of law requiring use of competitive
13 procedures.

14 (i) EFFECTIVE DATES.—

15 (1) The amendments made by subsection (c)
16 apply to contracts that have periods ending on or
17 after the end of the third calendar month that be-
18 gins after the date of enactment of this Act.

19 (2) The amendments made by subsections (a),
20 (b), (d), and (e) apply to contracts that have periods
21 beginning after the third calendar month that begins
22 after the date of enactment of this Act.

23 (3) The amendments made by subsection (f)
24 apply to contracts that have periods that begin after

1 the end of the 1-year period specified in paragraph
2 (1) of this subsection.

3 (4) The amendment made by subsection (g)
4 shall take effect on the date of enactment of this
5 Act.

6 **SEC. 22. EXEMPTION OF INSPECTORS GENERAL FROM PA-**
7 **PERWORK REDUCTION ACT REQUIREMENTS.**

8 (a) IN GENERAL.—Chapter 35 of title 44, United
9 States Code, is amended by inserting after section 3502
10 the following:

11 **“§ 3502a. Exemption of any Office of Inspector Gen-**
12 **eral**

13 “This chapter shall not apply with respect to any Of-
14 fice of Inspector General established within an agency
15 under the Inspector General Act of 1978.”.

16 (b) TABLE OF CONTENTS AMENDMENT.—The table
17 of contents of chapter 35 of title 44, United States Code,
18 is amended by adding after the item relating to section
19 3502 the following new item:

“3502a. Exemption of any Office of Inspector General.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect on the date of enactment of
22 this Act.

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